

I will read it again, just so that everybody can have it in their minds. "It is settled by the decision of this court," meaning the Supreme Court, "that the right of trial by jury does not extend to every criminal proceeding. At the time of the adoption of the Constitution," meaning, of course, the Constitution of the United States, "there were numerous offenses commonly defined as 'petty' which were tried summarily without a jury."

Now, all I am saying is that I think this is a valuable principle that ought to be continued in our law, and it is my understanding that the Committee in no way intended to eliminate that principle from the constitution when it drafted the words that are before you. But because there was confusion on the matter, I offered this amendment really as a clarifying amendment to make sure that this concept was continued.

I do not believe I can say any more to you, ladies and gentlemen on this subject, except to say that I think it is a valuable concept and one which will be a forward looking thing in the constitution in the years to come. And I think, therefore, that because of this confusion I would hope that we would adopt the amendment.

THE CHAIRMAN: Delegate Weidemyer.

DELEGATE WEIDEMEYER: Mr. President and members of the Committee, Delegate Child and I worked on this as a subcommittee, and we had before us Article 5 of the present Declaration of Rights.

We felt that this Convention would eventually adopt Article 5. We also had before us Article 21 of the present Declaration of Rights, and if you will notice, the language in our Recommendation follows very closely the language of Article 21. We did not intend to change anything existing in our present Maryland law regarding jury trials. We did not intend to enlarge or disparage any of the rights now known under the criminal trial by jury system. We did add two words, "of 12," inasmuch as we felt it imperative that we peg into the constitution that jury of twelve inasmuch as there was some slight movement among the Convention to change it and lower the number of jurors, or to get into the area where we might have majority verdicts. And so I think I can speak for Delegate Child, because he and I, in conferring on it, had no idea of enlarging or disparaging any rights as guaranteed under our present Constitution provided in Article 5 in the

present Declaration of Rights and in Article 21 of the Declaration of Rights.

And I think that it is a matter of constitutional construction, Mr. President; that when we adopt pretty much the same language without any change in wording that we necessarily carry along with that all the judicial construction of the past.

We carry with that all the judicial construction concerning the development and origin of the common law, and so I think that any further amendment to try to clarify this issue is certainly unnecessary.

I do hope that this amendment is defeated, because if we get into areas trying to clarify it, or be more specific, we are going to limit, and perhaps get ourselves into a worse sea of confusion.

I hope this Committee takes this section without amendment, and later on in R&P-2 or as part of the general provisions report, I hope that section 5 of Article 5 of the present Declaration of Rights also be incorporated into the constitution.

THE CHAIRMAN: Does any other Delegate desire to speak in favor of the amendment?

Delegate Bamberger.

DELEGATE BAMBERGER: I rise to offer an amendment to the amendment to make the intention perfectly clear. The amendment would provide after the present language, "as it has not heretofore been required."

THE CHAIRMAN: "As it has not heretofore been required"?

DELEGATE BAMBERGER: "As it has not heretofore been required," so that it would then read that "Trial by jury shall not be required for petty offenses, as it has not heretofore been required."

THE CHAIRMAN: Delegate Case, do you accept the amendment?

I might say that the Chair is rather lost as to the meaning. What is meant by the "has not heretofore been required"?

DELEGATE BAMBERGER: As I understand it, the sense of this amendment is to say that in the trial of petty offenses, whatever they may be, to the extent that in such offenses there has not been under the common law a requirement for trial by jury, in the future there shall not be a requirement for trial by jury.

THE CHAIRMAN: The Chair is unclear whether you are limiting it to the